

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NOS. 98-263-C & 98-331-C - ORDER NO. 98-836

OCTOBER 29, 1998

IN RE: Docket No. 98-263-C – Application of ICG)	ORDER APPROVING ✓ CERTIFICATE TO
Telecom Group, Inc. for a Certificate of Public)	PROVIDE LOCAL AND
Convenience and Necessity to Operate as a)	LONG DISTANCE
Reseller of Intrastate Interexchange)	TELECOMMUNICATIONS
Telecommunications Services within the State)	SERVICES
of South Carolina.)	
)	
AND)	
)	
Docket No. 98-331-C – Application of ICG)	
Telecom Group, Inc. for a Certificate of Public)	
Convenience and Necessity to Provide Local)	
Exchange Telecommunications Services)	
within the State of South Carolina.)	
)	

This matter comes before the Public Service Commission of South Carolina (“the Commission”) by way of the Applications of ICG Telecom Group, Inc. (“ICG” or “the Company”) for authority to provide intrastate interexchange and local exchange telecommunications services within the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. § 58-9-280 (Supp. 1997), and the Regulations of the Commission.

By letter, the Commission’s Executive Director instructed ICG to publish, one time, prepared Notices of Filing and Hearing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing and Hearing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. ICG complied with this instruction and provided the Commission with proof of publication of the Notice of Filing and Hearing.

A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC") in the local portion of the case. Counsel for SCTC filed a Stipulation, in which ICG stipulated that any Certificate which may be granted would authorize ICG to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until ICG provided written notice of its intent prior to the date of the intended service. ICG also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. ICG agreed to abide by all State and Federal laws and to participate to the extent it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to ICG provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached hereto as Exhibit 1.

A hearing was convened on October 15, 1998, at 12:00 noon, in the Commission's Hearing Room. The Honorable Philip T. Bradley, Chairman, presided. ICG was represented by Faye A. Flowers, Esquire. F. David Butler, General Counsel, represented the Commission Staff.

At the hearing, ICG presented Thomas E. Allen, Jr., Vice President of Government and External Affairs, to testify in support of the Application. The record reveals that ICG proposes to provide intrastate local exchange and interexchange telecommunications services to customers in South Carolina.

Mr. Allen testified that ICG possesses the technical, financial, and managerial resources and abilities to provide the services for which it seeks a certificate. As to managerial expertise, Mr. Allen stated that the Company's senior management team has substantial experience and expertise in telecommunications. As to financial resources, Mr. Allen stated that the Company had the appropriate resource to furnish the services requested. As to technical capabilities, Mr.

Allen explained that ICG would be relying, in large part, upon the technical capabilities of the local exchange carriers, whose services it would resale, as well as the networks and capabilities of major interexchange carriers and other carriers whose services may be resold. In addition, the Company has access to substantial technical resources of its own. Mr. Allen further testified that ICG intends to provide services whose quality meets or exceeds all standards set by the Commission. Mr. Allen said that in the future, the Company may provide services through its own facilities or through the purchase of unbundled network elements, also.

Mr. Allen also testified that ICG's provision of service would not adversely impact the availability of affordable local exchange service but should increase its availability. He stated that the public interest would be served by granting ICG authority to provide local exchange and interexchange services in that competition would be promoted, new ways of packaging telecommunications services would increase customer choices, and competition will bring pressure to bear upon the pricing of telecommunications services. Finally, Mr. Allen stated that ICG intends to abide by all universal service support requirements.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. ICG is a privately held corporation organized and existing under the laws of the State of Colorado and authorized to transact business in the State of South Carolina.
2. ICG requests authority to provide intrastate local exchange and interexchange telecommunications services.
3. The Commission finds that ICG possesses the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. § 58-9-280(B)(1)(Supp. 1997).

4. The Commission finds that ICG will provide services that will meet the service standards of the Commission. S.C. Code Ann. § 58-9-280(B)(2)(Supp. 1997).

5. The Commission finds that ICG's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. § 58-9-280(B)(3)(Supp. 1997).

6. The Commission finds that ICG will support universally available telephone service at affordable rates. S.C. Code Ann. § 58-9-280(B)(4)(Supp. 1997).

7. The Commission finds that the provision of local exchange service by ICG "does not otherwise adversely impact the public interest." S.C. Code Ann. § 58-9-280(B)(5)(Supp. 1997).

8. The Commission finds that ICG has the experience, capability, and financial resources to provide intrastate interexchange telecommunications service in South Carolina.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to ICG to provide intrastate local exchange and interexchange telecommunications services within South Carolina. Any proposal to provide local exchange service to rural service areas is subject to the terms of the Stipulation between ICG and SCTC.

2. Prior to offering local services in South Carolina, ICG shall file its final tariff of service offering, which shall include any changes agreed upon between ICG and the Staff.

3. For ICG's interexchange service offerings, the Commission adopts a rate design which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

4. For its interexchange service offerings, ICG shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. ICG shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. § 58-9-540 (Supp. 1997).

5. With regard to its intrastate interexchange services, ICG shall file its revised tariff and an accompanying price list within thirty (30) days from the date of receipt of this Order. The revised tariff shall be consistent with the findings of this Order, shall include all modifications suggested by Staff and agreed to by the Company, and shall be consistent with the Commission's Rules and Regulations.

6. With regard to its intrastate interexchange services, ICG is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

7. With regard to the Company's interexchange service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

8. ICG shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If ICG changes underlying carriers, it shall notify the Commission in writing.

9. With regard to the origination and termination of toll calls within the same LATA, ICG shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

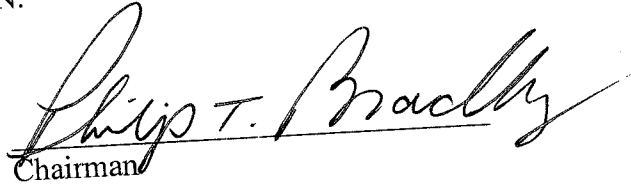
10. ICG shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests, and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. ICG shall file the names, addresses, and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment B shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced, and the Company is directed to comply with the Commission regulations unless waived by the Commission.

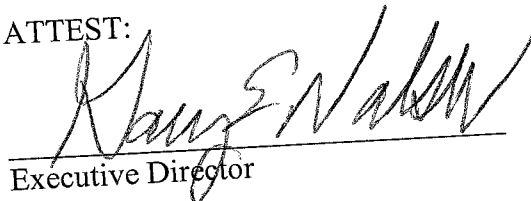
12. ICG shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition. Further, ICG shall conduct its business in accordance with all Commission Rules and Regulations unless waived by the Commission.

13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS FOR INTEREXCHANGE COMPANIES AND AOS'S

COMPANY NAME

FEI NO.

ADDRESS

PHONE NUMBER

CITY, STATE, ZIP CODE

(1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____

(2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____

(3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR
12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____

* THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF
CONSTRUCTION AND CUSTOMER DEPOSITS.

(4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR ENDING

* THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

(5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____

(6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT
OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS
METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3
ABOVE).

SIGNATURE

NAME (PLEASE TYPE OF PRINT)

TITLE

DOCKET NOS. 98-263-C AND 98-331-C - ORDER NO. 98-836
OCTOBER 29, 1998
ATTACHMENT B

**INFORMATION OF THE AUTHORIZED UTILITY
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission
the name, title, address, and telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number Fax Number

E-Mail Address

This form was completed by Signature

If you have any questions, contact the Consumer Services Department at 803-737-5230

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 98-331-C

Re: Application of ICG Telecom Group, Inc. (ICG))	
for a Certificate of Public Convenience and)	
Necessity to Provide Local Exchange Services)	STIPULATION
in South Carolina)	
)	
)	
)	

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and ICG Telecom Group, Inc. ("ICG") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, the necessity for SCTC's intervention in this matter is avoided and SCTC withdraws its opposition to ICG's Application. SCTC and ICG stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to ICG, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. ICG stipulates and agrees that any Certificate which may be granted will authorize ICG to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. ICG stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. ICG stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until ICG provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, ICG acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. ICG stipulates and agrees that if, after ICG gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then ICG will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. ICG acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service

which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. ICG agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. ICG hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 17th day of August, 1998.

ICG Telecom Group, Inc.

South Carolina Telephone Coalition:

Jayne A. Glowers
Atty for ICG Telecom

Margaret M. Fox
M. John Bowen, Jr.
Margaret M. Fox
McNair Law Firm, P.A.
Post Office Box 11390
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(803) 799-9800

Attorneys for the South Carolina
Telephone Coalition

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 98-331-C

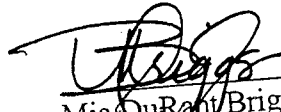
Re: Application of ICG Telecom Group Inc.)
Certificate of Public Convenience)
and Necessity to Provide Local Exchange)
Telecommunications Services in South Carolina)
_____)

CERTIFICATE OF SERVICE

I, Mia DuRant Briggs, do hereby certify that this day I caused to have served the foregoing
Stipulation to the below named party of record, by having same delivered as indicated, this 19th day
of August, 1998, and addressed as follows:

U.S. MAIL - FIRST CLASS POSTAGE AFFIXED:

Faye A. Flowers, Esquire
PARKER, POE, ADAMS & BERNSTEIN, L.L.P.
Post Office Box 1509
Columbia, South Carolina 29202-1509


Mia DuRant Briggs

Columbia, South Carolina